

**AT A RETREAT OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY,
VIRGINIA, HELD ON THE 22ND DAY OF JANUARY, 2005, AT 9:05 A.M. AT THE JAMESTOWN
4-H CENTER, 3751 4-H CLUB ROAD, JAMES CITY COUNTY, VIRGINIA.**

A. ROLL CALL

Michael J. Brown, Chairman, Powhatan District
Jay T. Harrison, Sr., Vice Chairman, Berkeley District
Bruce C. Goodson, Roberts District
John J. McGlennon, Jamestown District
M. Anderson Bradshaw, Stonehouse District

Sanford B. Wanner, County Administrator
Leo P. Rogers, County Attorney

B. RETREAT

1. Employee compensation

Ms. Carol M. Luckam, Human Resource Manager, provided the Board with an overview of the salary increase methodology, issues that will impact the FY 06 employee compensations, and issues regarding the cost of health insurance and projected cost increases.

The Board and staff discussed the pay for performance issues, methods to advise employees of the issues that will impact FY 06 employee compensation, and the relationship of performance evaluations to the budget.

2. Budget Guidance - FY 2006

Ms. Stephanie Ahrendt, Acting Director of Budget and Accounting, provided the Board with an overview of the projected County Operating Budgets and Capital Budgets including the FY 05 impacts on FY 06.

The Board and staff discussed the split between residential and commercial/industrial assessments; and the impacts of the PPTRA changes.

The Board and staff discussed the school census and County involvement in the census process.

The Board asked staff to move forward on flexible referendum modeling by Davenport and indicated interest in a Purchase of Development Rights bond of \$20 million and Parks and Recreation referendums at either a \$10 million, \$20 million, or \$30 million level.

The Board and staff discussed the ALS/BLS fees and requested the County Administrator prepare a budget with the fees included and one without to show the impacts on revenues and spending. Mr. Bradshaw commented on the ALS/BLS meetings and reported that Deputy Fire Chief Luton gave an excellent presentation.

Mr. John E. McDonald, Manager of Financial and Management Services, provided an overview of the elderly tax exemptions and compared it to York County's.

The Board and staff discussed possible changes to the exemptions.

Mr. Bradshaw expressed concern about setting a revenue target and then reducing the tax rate.

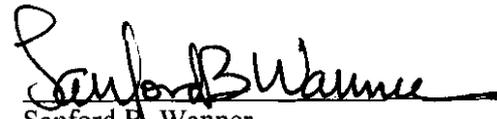
Mr. Brown indicated that the Board could address this in its normal way.

C. ADJOURNMENT

Mr. Bradshaw made a motion to adjourn.

On a roll call vote, the vote was: AYE: Harrison, Goodson, McGlennon, Bradshaw, Brown (5).
NAY: (0).

At 11:48 a.m. Mr. Brown adjourned the Board until 4 p.m. on January 25, 2005.


Sanford B. Wanner
Clerk to the Board

012205retreatbos.min

050 001463

PROFFERS

THESE PROFFERS are made this 29th day of November, 2004 by JAMES CITY SERVICE AUTHORITY, a political subdivision of the Commonwealth of Virginia (together with its successors and assigns, the "Owner"), and FIRST INVESTMENTS OF VIRGINIA, LLC, a Virginia limited liability company (together with its successors and assigns, the "Purchaser")

RECITALS

A. Owner is the owner of a parcel of land located in James City County, Virginia, containing approximately 0.459 acres with an address of 1899 Jamestown Road, Williamsburg, Virginia and being Tax Parcel 4640100003 (the "Property"), more particularly described on Exhibit A attached hereto and made a part hereof. The Property is now zoned R-8.

B. Purchaser has contracted to purchase approximately .344 acres of the Property (the "New Parcel") conditioned upon the rezoning of the Property.

C. Owner and Purchaser have submitted a preliminary plat to the County of James City, Virginia ("County") depicting the property lines of the New Parcel.

D. Owner and Purchaser have applied for a special use permit to allow the construction of a two-family dwelling on the New Parcel, consistent with the surrounding neighborhood.

E. Owner and Purchaser have applied to rezone the Property from R-8 to R-2, with proffers, consistent with the surrounding neighborhood.

F. Owner and Purchaser desire to offer to the County certain conditions on the development of the Property not generally applicable to land zoned R-2.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, the Owner and Purchaser agree that it shall meet and comply with all of the following conditions in developing the Property. If the requested rezoning is not granted by the County, these Proffers shall be null and void.

CONDITIONS

1. Water System Contributions. A contribution of \$750.00 per dwelling unit developed on the Property shall be made by the Owner to the County in order to mitigate impacts on the County from the physical development and operation of the dwelling units. The County may use these funds for development of alternative water sources or any project related to improvements to the public water system, the need for which is generated in whole or in part by the physical development and operation of the Property.

2. Timing of Cash Contributions. The cash contributions required in Proffer 1 above shall be made to the County prior to obtaining permits for building construction on the Property.

WITNESS the following signature:

JAMES CITY SERVICE AUTHORITY

By: *Larry M. Foster*
Larry M. Foster, General Manager

FIRST INVESTMENTS OF VIRGINIA, LLC

By: *Michael K. Putt*
Michael K. Putt, Managing Member

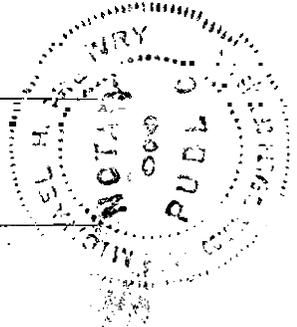
STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF JAMES CITY, to-wit:

The forgoing instrument was acknowledged this 5th day of JANUARY, 2005,
by Larry M. Foster, JCSA General Manager.

My commission expires: 12-31-08

Michael H. Dewey
NOTARY PUBLIC



STATE OF VIRGINIA AT LARGE

CITY/COUNTY OF JAMES CITY, to-wit:

The forgoing instrument was acknowledged this 5th day of JANUARY, 2005,
by Michael K. Putt, Managing Member of First Investments, LLC..

My commission expires: 12-31-08

Michael H. Dewey
NOTARY PUBLIC

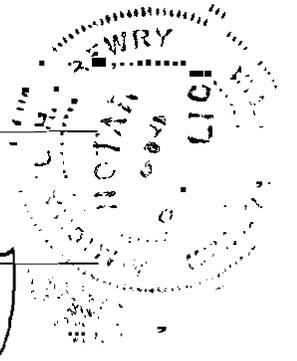


Exhibit A

All that certain lot, piece or parcel of land situate, lying and being in Berkeley District, James City County, Virginia, containing 20,000 square feet, set out and shown as "WELL LOT" on that certain plat of survey entitled, "A SURVEY OF A PARCEL OF LAND FOR CONVEYANCE TO THE JAMES CITY SERVICE AUTHORITY LYING IN BERKELEY DISTRICT, JAMES CITY COUNTY, VIRGINIA" dated November 23, 1973, made by L.V. Woodson & Associates, Inc.

Being the same property conveyed to James City Service Authority by deed from Grayson G. Fentriss, Trustee of the LeMonde Land Trust, dated October 30, 1974, and recorded November 27, 1974 in the Clerk's Office, Circuit Court, James City County, Virginia, in Deed Book 157 at page 556.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 11/29/05
at 11:29 AM/PM. The taxes imposed by Virginia Code
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX
\$ _____ \$ _____ \$ _____
TESTE: BETSY B. WOOLRIDGE, CLERK

BY: Betsy B. Woolridge Clerk

Prepared by and return to:
Michael H. Drewry, Esquire
101-C Mounts Bay Road
Williamsburg, VA 23187
(757) 253-6832

050 001455

AMENDED AND RESTATED FORD'S

COLONY PROFFERS

These AMENDED and RESTATED FORD'S COLONY PROFFERS are made this 6th day of January, 2005 by REALTEC INCORPORATED, a North Carolina corporation (together with its successors and assigns, the "Owner").

RECITALS

A. Realtec is the owner and developer of the Ford's Colony at Williamsburg development containing approximately 2,781.49 acres and which is zoned R-4, Residential Planned Community, with proffers, and subject to a Master Plan heretofore approved by James City County.

B. Realtec has applied to amend its existing Master Plan to change the Master Plan area designations of certain areas shown on the existing Master Plan as shown on the amended Master Plan entitled 2004 Master Plan submitted to the County prepared by AES Consulting Engineers dated October 15, 2004 and described in the October 2004 Addendum to the Ford's Colony at Williamsburg Community Impact Statement in Support of the October 2004 Master Plan Amendment prepared by AES Consulting Engineers. Among the changes are the location of 50 single family residential lots in Section A-33 (the "Lots").

C. In connection with prior Master Plan amendments, Realtec has entered into and James City County has accepted

Amended and Restated Ford's Colony Proffers dated as of September 20, 2002 and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in James City as Instrument No. 020024840 and Richard J. Ford has entered into and James City County has accepted Richard J. Ford/Ford's Colony Proffers dated as of September 29, 1995 and recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and County of James City in James City Deed Book 757 at page 529 (together, the "Existing Proffers"). Realtec now owns the property subject to the Richard J. Ford/Ford's Colony Proffers referenced above.

D. In consideration of the approval of the amendment of its Master Plan, Owner desires to amend and restate the Existing Proffers as set forth below. If the requested amendment of Master Plan is not approved by James City County, these Amended and Restated Ford's Colony Proffers shall be void and the Existing Proffers shall remain unchanged, in full force and effect.

RESTATEMENT AND AMENDMENTS

1. Restatement. The Existing Proffers are hereby restated and incorporated herein by reference.

2. Community Impacts. Owner shall make a contribution of \$750.00 to the County for each of the Lots. Such contributions shall be used by the County to finance off-site road improvements

on News Road, Longhill Road and/or Centerville Road, for schools, libraries or for any other project included in the County's capital improvement program, the need for which is generated in whole or in part by the development of the Lots

3. Emergency Services Contribution. Owner shall make a contribution of \$312.00 to the County for each of the Lots as herein provided. Such contributions shall be used by the County for emergency services purposes or for any other project included in the County's capital improvement program, the need for which is generated in whole or in part by the development of the Lots.

4. Water System Contribution. A contribution of \$796.00 for each of the Lots shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the Lots. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system, the need for which is generated in whole or in part by the physical development and operation of the Property.

5. Timing of Cash Contributions. The cash contributions required by Proffers 2 - 4 above for each of the Lots shall be paid at the time of final subdivision plat approval for such Lots.

6. Greenway Contribution. At the time of approval of the first final subdivision plat for any of the Lots, Owner shall

make a restricted contribution to the Williamsburg Land Conservancy of \$5,000.00 for use by the Williamsburg Land Conservancy for the acquisition of greenways and/or development of trails within existing greenways within James City County. On or before the first, second and third anniversaries of the approval of the first final subdivision plat of Lots, Owner shall make additional restricted contributions to the Williamsburg Land Conservancy of \$5,000.00 for use by the Williamsburg Land Conservancy for the acquisition of greenways and/or development of trails within existing greenways within James City County. A further condition of these contributions shall be that if for any reason the Williamsburg Land Conservancy is unable or unwilling to use the contributions for their intended purpose within four years of the date of the initial contribution, that the Williamsburg Land Conservancy shall transfer the funds contributed to it pursuant to this Condition to the County's greenway fund included in the County's capital improvement program for the acquisition of greenways and/or development of trails within existing greenways within James City County. If any contribution required by this Proffer is not made when due, the County shall not be obligated to approve subdivision plats or site plans until such contribution has been made.

7. Community Services Contributions. At the time of approval of the first final subdivision plat of any of the Lots,

Owner shall make a contribution to Housing Partnerships of \$4,000.00 for use by Housing Partnerships within James City County and a contribution of \$1,000.00 to the County's Neighborhood Connections program. On or before the first, second and third anniversaries of the approval of the first final subdivision plat of Lots, Owner shall make additional contributions to Housing Partnerships of \$4,000.00 for use by Housing Partnerships within James City County and additional contributions of \$1,000.00 to the County's Neighborhood Connections program. If any contribution required by this Proffer is not made when due, the County shall not be obligated to approve subdivision plats or site plans until such contribution has been made

8. Water Conservation. The Owner shall be responsible for developing water conservation standards consistent with James City Service Authority and County Water Conservation Guidelines in effect as of the date hereof to be submitted to and approved by the James City Service Authority and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards shall

be approved by the James City Service Authority prior to final subdivision or site plan approval.

WITNESS the following signatures.

REALTEC INCORPORATED

By: [Signature]
Title: VICE PRESIDENT

STATE OF VIRGINIA

CITY/COUNTY OF Williamsburg

The foregoing instrument was acknowledged before me this 6th day of January, 2005 2004 Drew Mulhare as Vice President of Realtec Incorporated.

[Signature]
NOTARY PUBLIC

My commission expires: 31 March 2008

Prepared by:
Vernon M. Geddy, III, Esquire
Geddy, Harris, Franck & Hickman, LLP
1177 Jamestown Road
Williamsburg, VA 23185
(757) 220-6500

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 27 Jan 05
at 11:35 AM/PM. The taxes imposed by Virginia Code
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.

STATE TAX LOCAL TAX ADDITIONAL TAX
\$ _____ \$ _____ \$ _____

TESTE: BETSY B. WOOLRIDGE, CLERK
BY: [Signature] Clerk

050001464

PROFFERS

THESE PROFFERS are made this 24th day of November, 2004 by NOLAND PROPERTIES, INC., a Virginia corporation (together with its successors in title and assigns, the "Owner").

RECITALS

A. Owner is the owner of a tract or parcel of land located in James City County, Virginia, with an address of 6601 Richmond Road, Williamsburg, Virginia and being a portion of Tax Parcel 2430100035 containing approximately 52 acres as shown on the Master Plan (defined herein), being more particularly described on Schedule A hereto (the "Property").

B. The Property is now zoned B-1, with proffers dated November 15, 1989 and recorded in James City Deed Book 458 at page 126 (the "Existing Proffers"). Owner has applied to rezone the Property from B-1, with proffers, to MU, Mixed Use District, with proffers.

C. Owner has submitted to the County a master plan entitled "Master Plan for Rezoning of Lightfoot Mixed Use Development for Noland Properties, Inc." prepared by AES Consulting Engineers dated September 3, 2004 (the "Master Plan") for the Property in accordance with the County Zoning Ordinance. Owner has submitted to the County a traffic impact analysis entitled "Traffic Analysis for Lightfoot Mixed Use Development" prepared by DRW Consultants, Inc. dated March 3, 2004 (the "Traffic Study") for the Property.

D. Owner desires to offer to the County certain conditions on the development of the Property not generally applicable to land zoned MU.

NOW, THEREFORE, for and in consideration of the approval of the requested rezoning, and pursuant to Section 15.2-2297 of the Code of Virginia, 1950, as amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property. Upon the approval of the requested rezoning, the Existing Proffers are replaced and superceded in their entirety by these Proffers. If the requested rezoning is not granted by the County, these Proffers shall be null and void and the Existing Proffers shall remain in full force and effect.

CONDITIONS

1. **Owners Association.** There shall be organized an owner's association or associations (the "Association") in accordance with Virginia law in which all property owners in the development, by virtue of their property ownership, shall be members. The articles of incorporation, bylaws and restrictive covenants (together, the "Governing Documents") creating and governing each Association shall be submitted to and reviewed by the County Attorney for consistency with this Proffer. The Governing Documents shall require that each Association adopt an annual maintenance budget, which shall include a reserve for

maintenance of stormwater management BMPs, recreation areas, private roads and parking areas, sidewalks, and all other common areas (including open spaces) under the jurisdiction of each Association and shall require that the Association (i) assess all members for the maintenance of all properties owned or maintained by the Association and (ii) file liens on members' properties for non-payment of such assessments. The Governing Documents shall grant each Association the power to file liens on members' properties for the cost of remedying violations of, or otherwise enforcing, the Governing Documents. If there is more than one Association created for the Property the Associations shall enter into a costs sharing agreement allocating responsibility for maintenance and expenses for common areas described above between the Associations.

2. Water Conservation. (a) The Association shall be responsible for developing water conservation standards to be submitted to and approved by the James City Service Authority and subsequently for enforcing these standards. The standards shall address such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources. The standards

shall be approved by the James City Service Authority prior to final subdivision or site plan approval.

(b) If the Owner desires to have outdoor watering in the area of the Master Plan designated as Areas 2, 4 or 5 it shall provide water for irrigation utilizing surface water collection from the two surface water ponds that are shown on the Master Plan and shall not use James City Service Authority ("JCSA") water or well water for irrigation purposes, except as provided below. This requirement prohibiting the use of well water may be waived or modified by the General Manager of JCSA if the Owner demonstrates to the JCSA General Manager that there is insufficient water for irrigation in the surface water impoundments, and the Owner may apply for a waiver for a shallow (less than 100 feet), well to supplement the surface water impoundments.

3. Cash Contributions for Community Impacts. (a) A contribution of \$630.00 for each residential dwelling unit on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for development of alternative water sources or any project related to improvements to the JCSA water system, the need for which is generated in whole or in part by the physical development and operation of the Property.

(b) A contribution of \$382.50 for each residential dwelling unit on the Property shall be made to the James City Service Authority ("JCSA") in order to mitigate impacts on the County from the physical development and operation of the Property. The JCSA may use these funds for development of sewer system improvements or any project related to improvements to the JCSA sewer system, the need for which is generated in whole or in part by the physical development and operation of the Property.

(c) A contribution for each non-residential building on the Property in an amount equal to \$1.53 per gallon per day of average daily sanitary sewage flow as determined by JCSA based on the use of the building(s) shall be made to the JCSA in order to mitigate impacts on the County from the physical development and operation of the Property. Contributions for buildings on Area 1B shown on the Master Plan shall be reduced by a credit based on flows from the prior use of that Area as a restaurant. Contributions for buildings on Area 1D shown on the Master Plan shall be reduced by a credit based on flows from the prior use of that Area as retail shops. The JCSA may use these funds for development of sewer system improvements or any project related to improvements to the JCSA sewer system, the need for which is generated in whole or in part by the physical development and operation of the Property.

(d) A contribution of \$600.00 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts

on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for emergency services, off-site road improvements, library uses, and public use sites.

(e) A contribution of \$605.00 for each dwelling unit on the Property shall be made to the County in order to mitigate impacts on the County from the physical development and operation of the Property. The County may use these funds for any project in the County's capital improvement plan, the need for which is generated in whole or in part by the physical development and operation of the Property, including, without limitation, for school uses.

(f) The contributions described above shall be payable for each dwelling unit or non-residential building on the Property at the time of subdivision or site plan approval for such unit or building.

(g) The per unit contribution(s) paid in each year pursuant to this Section shall be adjusted annually beginning January 1, 2006 to reflect any increase or decrease for the preceding year in the Consumer Price Index, U.S. City Average, All Urban Consumers (CPI-U) All Items (1982-84 = 100) (the "CPI") prepared and reported monthly by the U.S. Bureau of Labor Statistics of

the United States Department of Labor. In no event shall the per unit contribution be adjusted to a sum less than the amounts set forth in paragraphs (a) through (d) of this Section. The adjustment shall be made by multiplying the per unit contribution for the preceding year by a fraction, the numerator of which shall be the CPI as of December 1 in the year preceding the calendar year most currently expired, and the denominator of which shall be the CPI as of December 1 in the preceding year, In the event a substantial change is made in the method'of establishing the CPI, then the per unit contribution shall be adjusted based upon the figure that would have resulted had no change occurred in the manner of computing CPI. In the event that the CPI is not available, a reliable government or other independent publication evaluating information heretofore used in determining the CPI (approved in advance by the County Manager of Financial Management Services) shall be relied upon in establishing an inflationary factor for purposes of increasing the per unit contribution to approximate the rate of annual inflation in the County.

4. Entrances/Taper. There shall be no more than two entrances into the Property to and from Route 60 in the general locations shown on the Master Plan. An eastbound 150 foot right turn taper on Route 60 shall be constructed at the right-in, right-out entrance to the Property from Route 60. The taper

proffered hereby shall be constructed in accordance with Virginia Department of Transportation standards and shall be completed prior to the issuance of the first certificate of occupancy for a building utilizing that entrance.

5. Private Streets. All streets on the Property shall be private and shall conform to VDOT construction standards. Private streets shall be maintained by the Association(s). The party responsible for construction of a private street shall deposit into a maintenance reserve fund to be managed by the Association responsible for maintenance of that private street an amount equal to one hundred and fifty percent (150%) of the amount of the maintenance fee that would be required for a similar public street as established by VDOT - Subdivision Street Requirements. The County shall be provided evidence of the deposit of such maintenance fee at the time of final site plan or subdivision plat approval by the County for the particular phase or section which includes the relevant private street.

6. Updated Traffic Study. (a) If any use is proposed to locate on the Property with a materially higher trip generation based on ITE trip generation figures than the use used in the 'Traffic Study which results in an overall materially higher trip generation from the Property, then Owner shall submit with the proposed site plan for the new use an updated traffic impact study to the Director of Planning and VDOT based on the new

proposed use for their review and approval and shall implement the recommendations of the approved updated study prior to issuance of certificate of occupancy for the new use.

(b) In any event, the Owner shall submit an updated traffic impact study to the Director of Planning and VDOT for their review and approval prior to the time of the issuance of building permits for (i) 70% of the commercial square footage permitted on the Property under the Master Plan and (ii) 50% of the total number of residential units permitted on the Property under the Master Plan, unless the Director of Planning and VDOT waive such requirement. Both thresholds shall be met before the study is required to be performed. The updated traffic study shall include actual traffic counts from the developed portions of the Property and utilize ITE trip generation figures for undeveloped portions of the Property and shall account for all other traffic utilizing the entrance road into the Property and shall determine whether a traffic signal and/or second left turn lane at the main entrance to the Property are warranted. If the approved updated study determines such a signal and/or additional turn lane are warranted, the County shall not be obligated to issue any further building permits for further development on the Property until such second westbound left turn lane at the main entrance into the Property from Route 60 and/or traffic signal at the main entrance have been installed or their installation commenced and surety for their completion in form acceptable to the County

Attorney have been posted with the County. Any such traffic signal shall include signal preemption equipment for emergency use and , if required by VDOT, shall be coordinated with other traffic signals along Route 60.

7. Landscaped Setback. The 20 foot buffer adjacent to Smith Memorial Baptist Church property (Tax Map #(24-3)(1-36) and the Zaharopulus property (Tax Map #(24-3)(1-37A) shall contain enhanced landscaping, defined as 125% of the landscaping otherwise required by the County zoning ordinance. No fence located in the buffer shall be closer than 19 feet to the Property boundary line. The facade of the mini-storage warehouses facing Smith Memorial Baptist Church shall be brick and no road or driveway shall be permitted between the 20 foot buffer adjacent to Smith Memorial Baptist Church and the mini-storage warehouses.

8. Affordable Housing Units. (a) At least 5% (rounded down to the nearest whole unit) of the residential dwelling units on the Property shall be reserved and offered for sale at prices of \$110,000.00, subject to adjustment as provided below, and at least 5% (rounded down to the nearest whole unit) of the residential dwelling units on the Property shall be reserved and offered for sale at prices of \$135,000.00, subject to adjustment as provided below. The maximum price set forth herein shall be adjusted annually as of January 1 of each year by increasing such

prices by the cumulative rate of inflation as measured by the Consumer Price Index - Urban, U.S. City Average annual average change for the period from January 1, 2005 until January 1 of the year in question. The annual increase shall not exceed five percent (5%). The Director of Planning shall be provided with a copy of the settlement statement for each sale at a price at or below the maximum prices set forth above. Owner shall consult with and accept referrals of, and sell to, potential qualified buyers from the James City County Office of Housing and Community Development on a non-commission basis. The units subject to this Condition shall be constructed prior to the County being required to issue building permits for more than 200 residential dwelling units on the Property.

9. Development Phasing. The County shall not be obligated to issue building permits for any residential dwelling units on the Property until the County has issued building permits for at least 25,000 square feet of floor area within areas designated as Area 1 on the Master Plan and construction thereof (defined as footings dug and foundations poured and passed required inspections) has commenced.

10. Environmental Protections. (a) The Owner and/or the owners association shall grant, free of charge, to a County approved land conservation entity and/or the County a conservation easement with terms consistent with these Proffers

over the area designated on the Master Plan as Area 3 generally in the locations shown on the Master Plan. The exact boundaries of the Conservation Area shall be shown on subdivision plats and/or site plans of the Property. The County shall not be obligated to issue land disturbing permits for areas with preliminary plan or plat approval until the County has approved the exact location of the Conservation Area on such plats or plans. The conservation easement over the Conservation Area shown on each individual subdivision plat or site plan shall be granted at the time of final approval thereof by the County. The Conservation Area shall remain undisturbed and in its natural state, preserving indigenous vegetation except as set forth below. The stormwater BMP shown on the Master Plan may be located in the Conservation Area with road crossings/dam structure generally in the location shown on the Master Plan, unless otherwise approved by the County. With the prior approval of the County Engineer or his designee on a case by case basis, (i) dead, diseased and dying trees or shrubbery and invasive or poisonous plants may be removed from the Conservation Area; (ii) select hand clearing and pruning of trees shall be permitted in the Conservation Area to permit sight lines or vistas, and (iii) utilities, pedestrian paths, trails and bridges may intrude into or cross the Conservation Area. If vegetation is removed from the Conservation Area by development activities it shall be replaced by indigenous vegetation that is equally or

more effective in retarding runoff, preventing erosion and filtering nonpoint source pollution and in accordance with the following ratios and sizes: 2:1 for canopy trees (using 1.5 inch caliper tree), 1.5:1 for sub-canopy trees (using 1 inch caliper tree) and 1:1 for shrubs (using 5 gallon container). The Conservation Area shall be maintained by Owner unless the County approved land conservation entity or the County assumes responsibility therefor under its easement or the Conservation Area is conveyed to an owners association, at which time the association shall assume responsibility for its maintenance. The Conservation Area shall be exclusive of lots or dwelling units.

(b) Owner shall submit to the County a master stormwater management plan for the entire Property, including the regional stormwater management facility generally as shown on the Master Plan, for review and approval by the Environmental Division. The master stormwater management plan may be revised and/or updated during the development of the Property with the prior approval of the Environmental Division. The County shall not be obligated to approve any final development plans for development on the Property until the master stormwater management plan has been approved. The approved master stormwater management plan, as revised and/or updated, shall be implemented in all development plans for the Eroperty.

(c) There shall be a 10 foot construction setback adjacent to all Resource Protection Areas on the Property. No building shall be permitted in this setback area. This setback shall be reflected on all development plans for those areas of the Property.

11. Route 60 Community Character Buffer. Owner has submitted to the County a conceptual landscape plan for the fifty foot average width community character corridor buffer shown and described on the Master Plan ("CCC Buffer") along the Route 60 frontage of the property (the "Landscaping Plan"). All site plans for development including any portion of the CCC Buffer shall contain landscaping generally consistent with the Landscaping Plan, with such landscaping to be subject to review and approval by the Director of Planning. All signs located within the CCC Suffer shall be monument signs with a consistent monument structure. The building walls of all buildings facing Route 60 shall be constructed of brick, glass, masonry or better split faced block, dryvit, stone, manufactured stone, or siding as determined by the Director of Planning. All rooftop mechanical equipment will be screened from view from Route 60.

12. Conceptual Review. Prior to submission of a preliminary site plan for any residential development in Areas 2, 4 and 5 of the Property, Owner shall submit a more detailed

conceptual site plan for the development to the Director of Planning for review and approval.

13. Pedestrian Connections. Owner shall provide pedestrian connections with a durable surface between the Property and the adjacent property upon which Williamsburg Outlet Mall is located and between each of Areas 1 - 5 shown on the Master Plan, with the plans, location and materials for such connections subject to review and approval by the Director of Planning and with such connections to be shown on the development plans for the Area in question. Pedestrian connections shall be constructed between Areas shown on the Master Plan at the time of site construction of each of the Areas being connected. The connections shall be either (i) installed or (ii) bonded in form satisfactory to the County Attorney prior to the issuance of any certificates of occupancy for any buildings in each such Area.

14. Streetscape Guidelines. The Owner shall provide and install streetscape improvements on both sides of the main entrance road into the Property in Area 1 as shown on the Master Plan and along the private roads in Areas 2, 4 and 5 as shown on the Master Plan in accordance with the applicable provisions of the County's Streetscape Guidelines policy. The streetscape improvements shall be shown on development plans for that portion of the Property and submitted to the Director of Planning for approval during the site plan approval process.

15. **Reserved Right of Way.** Owner shall reserve the area shown on the Master Plan as "Possible Future Connections to Adjacent Parcel (Light Duty Only)" for a possible future road connection to the adjacent parcel to the north of the Property. Owner shall have no responsibility to construct a connecting road in this area and shall not be obligated to permit the owner of the adjacent parcel to construct a road in such area unless and until Owner and the owner of the adjacent parcel have entered into an agreement providing for the equitable sharing of the cost of maintenance of such road and the main entrance road into the Property, agreed upon a restriction limiting the use by the adjacent parcel of such roads to cars and light duty trucks and obligating the owner of the adjacent parcel to pay for any required road or traffic signal improvements warranted by the additional traffic from the adjacent parcel.

16. **Special Fence Requirement Area.** Within the area shown on the Master Plan as "Special Fence Requirement Area" all fencing shall be either wood, dark metal picket fence or dark vinyl coated chainlink fence. If chain link fencing is used in this area it shall be supplemented with evergreen shrubs at four foot spacing along 75% of its length, with the exact location of such shrubs to be subject to the review and approval of the Director of Planning. Barbed wire or similar security fencing

material shall not be used along the top of any fencing in this Area.

17. Liuhiting. All exterior lighting on Area 1 of the Property shall be recessed fixtures with no bulb, lens or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. Modifications to this requirement may be approved by the Planning Director if it is determined that the modifications do not have any adverse impact on the Property or the surrounding property.

18. Recreation. There shall be provided in Areas 2, 4 and 5 recreational facilities meeting the standards set forth in the County's Recreation Master Plan or in lieu of a portion thereof Owner shall make cash contributions to the County in amount determined pursuant to the County's Recreation Master Plan (with the amount of such cash contributions being determined by escalating the amounts set forth in the Recreation Master Plan from 1993 dollars to dollars for the year the contributions are made using the formula in Section 3(f)) or some combination thereof. All cash contributions proffered by this Proffer 18 shall be used by the County for recreation capital improvements. The exact locations of the facilities proffered hereby and the

equipment to be provided at such facilities shall be subject to the approval of the Development Review Committee.

19. Archaeology. A Phase I Archaeological Study for the entire Property shall be submitted to the Director of Planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource *Management* Reports and the Secretary of

the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the Property and the clearing, grading or construction activities thereon.

20. Residential Units For Sale. All residential units constructed on the Property shall be offered for sale by the developer thereof.

WITNESS the following signature.

NOLAND PROPERTIES, INC.
By: [Signature]
Title: AUTHORIZED SIGNATORY

STATE OF VIRGINIA AT LARGE
CITY/COUNTY OF WILLIAMSBURG, to-wit:

The foregoing instrument was acknowledged this 24th day of November, 2004, by Robert J. Singley, Jr. as Authorized Signatory of NOLAND PROPERTIES, INC. on behalf of the corporation.

[Signature]
NOTARY PUBLIC

My commission expires: 12/31/04

ALL that certain piece or parcel of land, situate, lying and being 'in James City County, Virginia, containing 53.44 acres more or less shown on a plat entitled "ALTA/ACSM LAND TITLE SURVEY A PARCEL CONTAINING 53.44 ACRES +/- OWNED BY EASTERN OREO, TNC." dated May 10, 1995, made by AES Consulting Engineers of Williamsburg, Virginia, together with the buildings and improvements thereon, which plat is recorded in the Clerk's Office of the Circuit Court for the City of Williamsburg and James City County, Virginia in Plat Book 61, page 79.

LESS AND EXCEPT that certain parcel of land containing approximately 1.4 acres constituting a portion of the property described above shown and set out as "Proposed Chesapeake Bank Site, 1.4 AC." on the Master Plan.

VIRGINIA: CITY OF WILLIAMSBURG & COUNTY OF JAMES CITY
This document was admitted to record on 27 June 05
at 11:32 AM/PM. The taxes imposed by Virginia Code
Section 58.1-801, 58.1-802 & 58.1-814 have been paid.
STATE TAX LOCAL TAX ADDITIONAL TAX
\$ _____ \$ _____ \$ _____
TESTE: BETSY B. WOOLRIDGE, CLERK
BY: Betsy B. Woolridge Clerk